IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2522 OF 2004.

Bahujan Shikshan Prasarak Mandal
& ors. ... Petitioners.
V/s.
Shri Suryakant Tatoba Mali. ... Respondent.

Shri J.P. Kharge for the petitioners.

Shri V.A. Gangal with Ashok Gade for the respondent.

CORAM: R.C.CHAVAN,J

DATED: 11th January 2007.

P.C.:

. Heard.

2. Petitioners are aggrieved because they have been restrained by an order of injunction passed by the Additional District Judge, Islampur, while allowing respondent's appeal against rejection of his application for injunction. By the order of injunction, petitioners have been restrained from obstructing only day to day administration of Bahujan Shikshan Prasarak Mandal. Learned Counsel for the petitioners does not dispute that when the appeal was decided, his client's names did not appear in Schedule I in respect of the concerned trust. In fact, the Charity Commissioner had considered the change

report and held that respondents were trustees. According to the learned Counsel for the petitioners, subsequently, his clients have been recognised as trustees and change reports have been accepted. If that be so, it would be open for the petitioners to move the trial Judge for vacation of the injunction, though injunction order has been issued by the Additional District Judge in exercise of appellate jurisdiction. It would not be possible for this Court to go into the question as to who are the trustees.

3. The contention of the petitioners that the respondent ought to have obtained permission from the Charity Commissioner before filing suit, since the subject matter of the suit was one covered under section 50(1) of the Bombay Public Trusts Act, 1950, has to be rejected, since the suit is not shown to have been covered under section 50(1) of the B.P.T. Act. If the Charity Commissioner has already held in favour of the respondent, it would not be unreasonable for the respondent to expect that the petitioner should not interfere with the working of the trust. The District Judge has not gone into question whether petitioners or the respondent are entitled to run the affairs of the trust and the Court has not encroached into jurisdiction of the Charity Commissioner. The

suit itself is of the year 2002 and, therefore, must be ripe for final hearing. If parties so desire, they can get the suit decided. Learned Counsel for the petitioner states that his clients are eager to have suit decided. In view of this, interference in exercise of jurisdiction under Article 227 of the Constitution of India is not called for. Petition is, therefore, dismissed.

(R.C.CHAVAN,J.)